

REMARKS/ARGUMENTS

Applicants respond herein to the Office Action dated September 2, 2008.

Applicants' attorneys appreciate the Examiner's continued thorough search and examination of the present patent application.

Claims 5, 10, 12-18, 23, and 28-36 have been pending in this application. Claims 5, 14, 23, and 32 have been allowed. Claims 10, 12, 13, 15-18, 23, 28-31 and 33-36 have been rejected. Claims 1-4, 6-9, 11, 19-22, and 24-27 have been canceled.

Claims 10, 12-13, 15-18 and 28-36 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claims 10, 12-13 and 15-18 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

In response claims 10, 12-13, and 15-18 have been canceled and claim 28 has been amended to clarify its recitation of "a fifth cylindrical part branching from a middle of said inclined part and extending vertically downwardly." (See page 24, line 16 to page 25, line 3.)

Accordingly, withdrawal of the 35 U.S.C. §112 rejections is respectfully requested.

Claims 10 and 12-13 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,903,717 to Sumnitsch ("Sumnitsch") in view of Japanese Patent Application Laid-Open No. 11-87294 ("294") in view of U.S. Patent Application Publication No. 2002/0043275 to Okuda ("Okuda") and Japanese Patent Application Laid-Open 2000-183010 ("010").

Claims 15-18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Sumnitsch in view of '294 in view of Okuda and further in view of U.S. Patent No. 5,927,303 to Miya et al. ("Miya").

Claims 28-29 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Sumnitsch in view of '294 in view of Okuda and further in view of U.S. Patent No. 6,807,974 to Ono et al. ("Ono"). Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 33-36 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Sumnitsch in view of '294 in view of Okuda in view of Ono and further in view of Miya.

Independent claim 28 sets out a solution to a problem of reducing space of guards stacked in four stages. It further sets out a solution to a problem of spattering of the flying chemical solution. In other words, the shapes and the positions of the second and third guards are patentably distinct not “mere change of shape”. Instead, they have been selected, as recited in claim 28, in recognition of and to resolve the stated problems addressed by the invention of claim 28.

The Examiner admits that Sumnitsch does not disclose the structure of the invention of claim 28 but asserts that a cup 3 of Okuda includes a first projected part, a first cylindrical part, and an inclined part, which corresponds to a second guard of claim 28, that ‘010 includes a guard in a nest structure, and that the plurality of chemical solution guide parts set out in claim 28 can be constructed by combining ‘294, Okuda, and ‘010. ‘010 only discloses a plurality of cups in a nest structure, and fails to disclose or suggest to position a processing liquid passage below an inner cup.

Contrary to the Examiner’s assertion, the specification and Figures of ‘294 fail to disclose a “cylindrical part branching from a middle of said inclined part and extending vertically downwardly” as recited in claim 28. No projected part is shown. Instead, as shown in its Figure 7, ‘294 discloses three coaxially arranged guards. That is, ‘294 discloses, (in order from inside, i.e., a spin base 3 side, to outside) a guard having an inclined part 31a (hereinafter referred to as “guard R1”), an inclined part 31b (hereinafter referred to as “guard R2”), and an inclined part 31c (hereinafter referred to as “guard R3”).

As further illustrated in Figure 7 of ‘294, the guard R1 includes: (a) a vertical part 34a arranged coaxially with the spin base 3; (b) an inclined part 31a projecting obliquely upwardly from the upper end of a cylindrical part RC1 toward the spin base 3; and (c) a cylindrical part (hereinafter also referred to as “cylindrical part RC1”) extending vertically downwardly from the middle part of an inclined part 31b. Furthermore, the guard R2 includes: (d) a vertical part 34b arranged coaxially with the spin base 3; (e) an inclined part 31b projecting obliquely upwardly from the upper end of a cylindrical part RC1 toward the spin base 3; and (f) a cylindrical part (hereinafter referred to as “cylindrical part RC2”) extending vertically downwardly from the middle part of the inclined part 31b.

In paragraph [0045], the '294 specification describes that when an inclined part 31b is positioned at the height HW of a substrate W, flying cleaning solution spattering from a substrate W in rotation is received by an inclined part 31b and led along an inclined part 31b and a vertical part 34b. In other words, '294 discloses that when positioned at the height HW of the substrate W, an inclined part 31b functions as a guide part and a space between a vertical part 34b of a guard R2 and a vertical part 34a of a guard R1 functions as a processing liquid passage, respectively. This, and other disclosures of '294 fail to teach or suggest any structure corresponding to "a first cylindrical part" arranged above an inclined part of claim 28. Therefore, it would not be obvious, even to persons skilled in the art, where in the guards R1-R3 of '294, a projecting part of Okuda may be provided. Similarly, it would not be obvious to the persons skilled in the art how to construct the second guard of claim 28.

If the cup 3 described in Okuda, were to be positioned on the guards R1-R3 of '294, so that each (both) of the inclined parts 31a-31c and the cup 3 were able to receive the processing liquid, then, contrary to claim 28, each of the guards constructed by this combination may receive the processing liquid at two places. Therefore, the structure and function of thus combined guards of Okuda and '294 would be different from the second guard of claim 28.

Ono does not remedy the discussed drawbacks of Sumnitsch, '294, and Okuda.

Thus, Sumnitsch, '294, Okuda, and Ono do not render claim 28 obvious and do not make it obvious to those skilled in the art how to combine elements disclosed in these references. It is only with the hind site of the present invention of claim 28 that such statement is made.

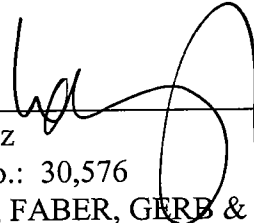
The prior art references '010 and Miya have not been used to reject independent claim 28.

Claims 29-31 and 33-36 depend directly or indirectly from above discussed independent claim 28 and are, therefore, allowable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the respective independent claim.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY THROUGH
THE PATENT AND TRADEMARK OFFICE EFS
FILING SYSTEM ON November 18, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Max Moskowitz', is written over a horizontal line.

Max Moskowitz
Registration No.: 30,576
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700

MM:JK:ck